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July 20, 1998

Office of the Secretary
Federal Communications Commission
1919 M Street NW
Washington, DC 20554

Subject: Comments Related to General Docket No. 98-68

Dear Sir:

Pursuant to the response guidelines set forth in General Docket No. 98-68, attached you will find one original and nine copies of our comments related to this most important Notice of Proposed Rule Making.

We thank the Commission for allowing us the opportunity to comment and hope that our thoughts and insight will be of help to the Commission during its further deliberations on this matter.

Very truly yours,

RETLIF TESTING LABORATORIES

Walter A. Poggi
President

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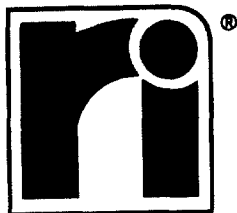
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MEMBER



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July 20, 1998

Office of the Secretary
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Washington, D.C. 20554

Subject: Comments Related to General Docket No. 98-68

Dear Sir:

This communication represents the comments and opinions of **RETLIF TESTING LABORATORIES** with regards to the above referenced Notice of Proposed Rule Making (NPRM).

RETLIF TESTING LABORATORIES is a 20 year old conformity assessment testing organization specializing in Electromagnetic Interference (EMC), Telecommunications, Product Safety and Environmental Simulation testing services. In addition to its main laboratory and corporate headquarters located in Ronkonkoma, Long Island, NY, **RETLIF** maintains additional testing facilities in Goffstown, NH and East Brunswick, NJ, an engineering office in Southfield, MI and a regulatory compliance office in Arlington, VA.

With "FCC type" testing being the first service offered 20 years ago, we at **RETLIF** have enjoyed a long technical and business relationship with the Commission. **RETLIF** has remained an industry leader in the field of EMC testing, chairing many industry initiatives, including many directly involved with laboratory accreditation and the EU/US Mutual Recognition Agreement. We remain as strong an advocate of meaningful laboratory accreditation today as we did twelve years ago when we requested the development of the first EMC laboratory accreditation program (NVLAP) here in the United States. (Federal Register Vol. 50, No. 27, Friday, February 8, 1985 5411)

In general we support the Commission's proposal with regards to the development and designation of Telecommunications Certification Bodies (TCB) and the concept of the transfer of much of the current approval process to the private sector. That being said, we strongly believe that in order for this proposal to be successfully implemented, three major concepts must be insured. The following represents our three major concerns after which we will make selective comments regarding specific sections within the NPRM.

NVLAP
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MEMBER

#1 INSURING THE TECHNICAL COMPETENCE OF THE TCBs

DESIGNATION CRITERIA

The current FCC approval process continually requires consistent technical decisions to be made. Therefore it is important that the process which is used to designate TCBs insures that the TCBs are technically capable to make such decisions. It is our opinion that the requirements of ISO Guide 65 alone, **DOES NOT**, fulfill this need. Accordingly we strongly support the position that TCB should be required to be **BOTH ISO Guide 25 and ISO Guide 65 accredited**.

CONTINUED INDUSTRY INVOLVEMENT

We further believe that the designation process of a TCB should be a "living" process and accordingly should not be based on one assessment. TCBs should be required to be actively involved in industry sponsored Technical Peer Review groups in which common industry approaches can be developed. We would suggest the Telecommunication Industry of America (TIA) as a resource for telecommunications issues and the U.S. Council of EMC Laboratories (USCEL) as a resource for EMC/RF issues.

#2 INSURING A TIMELY AND EFFECTIVE TRANSITION PERIOD

In order for the important transition period to be successfully implemented we believe that for that period there should only be one designating authority and that authority should be NIST/NVCASE working in close cooperation with the FCC. While we see merit and would support private sector designating bodies after the transition period, we believe that the complexity and "newness" of the issue will require such a high level of interaction, interpretation and cooperation, that it would be best to limit the number of parties involved during the transition period. The "implied guarantees" of governmental involvement will also initially strengthen the program's international acceptance.

#3 INSURING EFFECTIVE ENFORCEMENT

While we did, and continue to, support the concept of Manufacturer's Self Certification, which the Commission first initiated with NPRM Docket 95-19, we are also concerned about the industry reported abuses which are taking place. With the potential for interference even greater concerning the products which would be covered by these proposed rules, our concerns for "meaningful" enforcement practices is even greater. The concept of the industry regulating itself currently shows questionable results and most likely would fall short a the desired goal here also. An effective enforcement program will protect both reputable manufacturers and testing organizations.

Accordingly we would recommend and strongly support a structured post market surveillance program by the Commission that while maintaining fair and reasonable due process, also is empowered to impose meaningful fines, penalties or suspensions.

SPECIFIC NPRM SECTION COMMENTS

SECTION 11 - We agree with the concept of designating Telecommunication Certification Bodies (TCB) and with the transfer of elements of the approval process to the private sector.

SECTION 12 - While we believe ISO Guide 65 can be the basis for the "operational" designation of a TCB we further believe the technical competence of all TCBs must be attested to through ISO Guide 25 accreditation.

SECTION 13 - We agree completely with the concepts proposed in the section including the need for TCBs to be ISO Guide 25 accredited and to be involved in industry (consultative) activities.

SECTION 14 - We agree with NIST/NVCASE being the designating authority especially during the transition period. Following the transition period we would see merit in allowing other qualified accrediting bodies to also designate TCBs.

SECTION 15 - We agree that the designation process of TCBs should be open to all qualified entities, and further believe that should include manufacturers' laboratories which can clearly and accurately demonstrate independence within the manufacturing management structure.

We believe that post market sampling and surveillance will be an effective means to monitor the performance of TCBs. With the NVCASE operating procedures being based on international guidelines, it would appear that utilization of those procedures should be sufficient for any suspension or revocation actions. That being said, we would caution that the area of EMC test metrology can be impacted by many "uncertainties" and would hope that "technical due process" would be afforded to any TCB who's qualifications or performance was being questioned.

SECTION 16 - We support the use of a negotiated MRA framework as a means of addressing the designation of foreign laboratories, provided there is clear balance in the requirements imposed by both parties.

SECTION 17 - We agree with all aspects of this section **EXCEPT** for subsection (f). We believe that this subsection speaks volumes to the need for the TCB to be both ISO Guide 65 and 25 accredited and are concerned that this subsection cast doubt on that concept. We would further recommend that all laboratories providing data to a TCB or entering into a subcontract agreement with a TCB should also be required to be ISO Guide 25 accredited. We would suggest that manufacturer's laboratories also be held to that requirement but will reserve judgement at this time as to whether or not it should

be a mandated requirement.

It should be noted that the use of ISO Guide 25 accreditation as a basis for acceptance of subcontractor generated test data is in accordance with the requirements of ISO Guide 65 and may in fact reduce the "assessment" fees imposed on subcontracting bodies. The use of a basic requirement, i.e. ISO Guide 25, should allow a subcontracting body to work with several TCBs without requiring full assessments from any of them.

SECTION 18 - We agree with all of the principles specified.

SECTION 19 - We agree and support the concept put forth in this section and again would comment that during this period we believe in NIST working with the Commission should be designation TCBs. As the Commission wisely states, it will need to work closely with its designating partner, NIST, during this period. We would also suggest the Commission utilizing the resources of the US Council of EMC Laboratories and trade associations such as TIA and ITIC to develop industry forums where the Commission, NIST and developing TCBs would be able to interface and develop consensus industry approaches and opinions.

SECTION 22 - We agree with the concept of transferring elements of the Part 68 approval process to the private sector and would feel that the goal of the NPRM should be to have all three elements, conformity assessment, certification and registration, eventually transferred to the private sector in the form of TCBs.

SECTION 23 - As with our prior comments related to equipment under Part 2 of the rules, we believe that TCBs involved in Part 68 type work should be required to be both ISO Guide 65 and ISO Guide 25 accredited.

SECTIONS 25 thru 36 - We agree with the observations and conclusions made by the Commission with regards to the implementation of existing and developing MRAs.

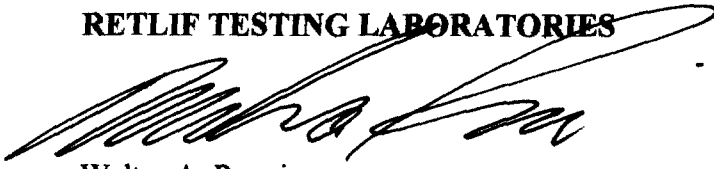
SECTION 48 - It would appear that while the Commission has studied the economic impact of the NPRM on small manufacturers, it has not extended the study to the laboratory community which is comprised of a high percentage of small business and who appear to be even more significantly impacted by this the NPRM. It should be noted that while the actions of this NPRM will "streamline" and provide competition in the approval process for manufacturers, it will add yet another assessment fee to testing laboratories, many of who will now need to become TCBs or will need to be assessed by TCBs in order to subcontract with them. Clearly this is quite a departure from the current FCC listing program which many laboratories have operated under for many years, providing basically the same technical testing services that they will under the program defined within the NPRM. Clearly the assessment fees within the structure suggested by this NPRM will make it more difficult for entry level laboratories to enter this marketplace and that should be a concern. We would again suggest the use of ISO Guide 25 as a baseline requirement and "criteria for acceptance" for all laboratories at the subcontracting level. While this requirement on the surface may appear to

be an economic burden, to have smaller non-TCB laboratories assessed over and over by every TCB they want to work with will be an economic assessment nightmare for them. We should learn from the "assessment craze" many U.S. laboratories went through in order to work with European Competent Bodies and remember that those excessive assessment fees in many cases were the driving force behind U.S. EMC laboratories' desires to complete an MRA with the EC.

In closing we commend the Commission for its efforts in developing this Notice of Proposed Rule Making. We believe that its successful implementation will lead to a more efficient and productive approval process for our country and will be of assistance in addressing the needs of U.S. laboratories, certification bodies and manufacturers in dealing within global markets. We hope that the comments and opinion presented will be of help and thank the Commission for the opportunity to present them.

Very truly yours,

RETLIF TESTING LABORATORIES

A handwritten signature in black ink, appearing to read 'Walter A. Poggi', written over the company name.

Walter A. Poggi
President

WAP/ap

cc. RTL (NY) - W. Hayes, R. Reitz, R. Hansen
RTL (NH) - S. Wentworth, J. Monahan
RTL (NJ) - S. Bacho
ACIL - Mary Jo DiBernardo
M Companies - M. Bush Esq.